

OIS Registry

82-296

6 APR 1982

DD/A Registry

82-0868

MEMORANDUM FOR: Director of Central Intelligence

THROUGH: Deputy Director of Central Intelligence
Executive Director

FROM: Harry E. Fitzwater
Deputy Director for Administration

SUBJECT: Change in FOIA Procedures to Cease
Identification of Government Agencies

APR 6 11 25 AM '82

12-2833

25X1

1. This memorandum informs you of a change in Agency procedures for processing requests for information under the provisions of the Freedom of Information Act (FOIA). Beginning immediately, the CIA Coordinator for Information and Privacy (CIA Coordinator) will no longer routinely identify to requesters those government agencies where documents responsive to their FOIA requests have been referred.

2. Background

Brian Toohey, a journalist for the Sidney Morning Herald Limited, and Dale Van Atta, a former associate of columnist Jack Anderson, co-authored an article entitled, "Secret Documents: How the CIA Saw the 1975 Crisis" (Attachment A). The article which recently appeared in the Australian publication National Times quoted from a letter written by the CIA Coordinator in response to an FOIA request by Brian Toohey. The article quotes that portion of the letter wherein Toohey is advised that documents belonging to the National Security Agency (NSA) and State Department responsive to his FOIA request were referred to those agencies (Attachment B). Mr. Toohey seeks to use the quote to validate his assertion that NSA purportedly had a collection requirement against the Government of Australia.

3. The decision to advise Mr. Toohey of the NSA and State Department material was based upon procedures developed and followed by this Agency and others since the passage of the Freedom of Information Act in 1975. Indeed, in the Brian Toohey case, the National Security Agency in conformance with normal practices was advised and concurred in the CIA acknowledgement that NSA documents had been surfaced.

4. I believe, however, after further investigation and reflection that the practice of specifically identifying agencies ought to cease. The Act itself does not require such identification. The rules and regulations promulgated in the code of

F-101

the Federal Register, Chapter 19, paragraph 1900.43(c) requires only that requesters be notified "in the event located records are determined to have originated with another government agency. . ." (Attachment C). Legally, the Office of General Counsel concurs that there is no requirement to specifically identify the agencies. Similarly, there are no administrative reasons for the Agency to continue this procedure. Indeed, the Department of State has indicated that they too are re-examining their policy on this issue. Other Intelligence Community agencies that we contacted indicated they would have no objection to this change in our procedures.

5. Since a change in procedures would reduce the risk of similar occurrences, I have advised the CIA Coordinator that he should stop the practice of identifying other government agencies.



Harry E. Fitzwater

Attachments:
As stated

Page Denied

Approved For Release 2007/04/13 : CIA-RDP83M00914R001800080001-8

FROM THE NATIONAL TIMES MARCH 28 to APRIL 1982

SECRET DOCUMENTS

PART TWO OF A SPECIAL REPORT BY BRIAN TOOHEY AND DALE VAN ATTA*

HOW THE CIA SAW THE 1975 CRISIS

Page Denied

Next 1 Page(s) In Document Denied

THE NATIONAL TIMES, MARCH 28 to APRIL 3, 1982

The Governor-General warned Whitlam and Liberal Opposition leader Fraser on Tuesday that if the disruptive politicking continued, he would be forced to step in. Although his job is largely honorific, the Governor-General can dissolve the House of Representatives and force an election.

Continued from page 18

his mind to sack Whitlam until some time between November 6 and November 9.

The National Times reported last week on how Kerr was briefed during this period on the intense security concern some CIA officials suddenly claimed to feel about Whitlam, but made the point that it was impossible to say if this had any influence on the Governor-General.

The briefing occurred after the National Intelligence Board on November 4 had referred to Fraser's "inept orchestration of the Opposition challenge" while the CIA on the morning of November 8 had concluded that Fraser's ability to force an early election had clearly been weakened, that the Australian public had swung away from him; that some Liberal senators were threatening to break ranks; and that there was even talk of replacing him as leader.

The election was forced, and Fraser's grip restored, when Kerr sacked Whitlam on November 11.

The CIA in its report in the Intelligence Daily the next day canvassed the possibility that Whitlam would refuse to relinquish office, even though he had already given up without the hint of a struggle.

"Australia may be entering a period of unprecedented disorder in the wake of Governor-General Kerr's sacking of former Prime Minister Whitlam.

"Inflammatory remarks by Whitlam could turn scattered demonstrations and work stoppages supporting him into a nationwide general strike, despite calls for restraint by some trade union leaders" (Hayke was the most important figure urging restraint).

The Daily continued: "Whitlam's insistence that the Governor-General's action was unconstitutional raises the possibility that he will refuse to relinquish his office, and that he will contend that the caretaker Cabinet headed by Liberal Party leader Fraser has no legal standing."



Defence Minister Bill Morrison... "Morrison may have an unsettling impact on the top management of the Defence Department," said the DIA.

Defence Intelligence gave its assessment in a top-secret report in the National Intelligence Bulletin on November 12:

"The Governor-General's dissolution of Parliament and appointment of Opposition leader Malcolm Fraser as caretaker Prime Minister are designed to resolve the Australian political crisis by appealing to the electorate. A vitriolic political campaign, probably the bluest in Australian history, is likely, with the election now expected on December 11.

"As Mr. Fraser has successfully unseated Whitlam, a tough political struggle is ahead. Whitlam and his Labor Party will focus their campaign on the question of constitutional authority in an effort to cloud such issues as

government economic mismanagement and political scandals. By projecting an image that Labor is being victimised, Whitlam probably hopes to swing the necessary votes for re-election. The Labor Party is firmly united behind him.

"In contrast, Fraser's Liberal-National Country coalition has been tarnished both by the constitutional crisis and by charges of overly close association with US officials. It will have difficulty exploiting the deeper domestic issues such as inflation and unemployment on which it will campaign. The depth of feelings on both sides could very well erupt in localised civil disorders, possibly including a general strike."

The CIA followed with a report headed

Election Atmospherics in its Weekly Review of November 21 which said:

"Pro-Labor demonstrations in Australian industrial cities underscore the political polarisation that has followed the sacking of former prime minister Whitlam. The demonstrations are more widespread than any since the Vietnam war protests of the late 1960s but have not yet caused major economic disruption.

"In the interests of party unity, moderate laborites are giving loose rein to the left-wing trade unions involved in the demonstrations. There is some concern, however, that the protests could get out of hand, cause severe dislocations, and anger the public.

"The mailing of letter bombs to caretaker prime minister Fraser and the Queensland State Premier is the type of action that could quickly erode public sympathy for labor." (No arrests have yet been made in the mail bomb cases.)

The foreign policy and investment pay-offs from the change of government were set out by the CIA in a report on January 22, 1976, in the National Intelligence Bulletin:

"Since coming to office six weeks ago, the Fraser Government has underscored the importance of Australia's ties with traditional allies, correcting what it saw as the tendency of the Labor Government to ignore such ties in the pursuit of Australian nationalism.

"The Liberal-Country Government will not return Australia to the patron-client relationship with the US that was a characteristic of earlier Liberal-Country administrations; the more independent stance adopted by the Whitlam Government is popular in Australia, and the Fraser Government will retain many aspects of it. The Fraser Government has plainly stated, however, that it will give priority to ties with the US, arguing that there is no need to feel defensive about the ANZUS relationship.

"Fraser's first initiative to strengthen the US connection was to back the US-UK base project for Diego Garcia Island in the Indian Ocean. (Continued on page 20)

MARCH 28 to APRIL 3, 1982

6 The new administration will provide a somewhat more favourable investment climate and greater incentives for development of the country's energy resources.

Continued from page 18

The Whitlam Government had been strongly opposed to the project and had supported an Indian Ocean 'zone of peace', appealing to world navies to stay out of the area. Fraser says this proposal ignores the reality of the Soviet naval build-up there.

"Beyond supporting US plans, Canberra will push ahead with the construction of a new naval base on the Indian Ocean coast of Western Australia. Fraser's Defence Minister has announced that Australia's allies will be given access to this facility. On the matter of port calls by US nuclear-powered warships, Canberra is not expected to impose obstacles, once environmental safeguards to such visits become adequate.

"Maintaining congenial relations with Indonesia is proving to be the Fraser administration's first difficult foreign policy problem. Australian governments consistently place considerable importance on friendly ties with their populous northern neighbour, but Indonesia's military intervention in East Timor has created a major complication.

"Although both Whitlam and Fraser had clearly signalled their willingness to accept a quick Indonesian take-over, the take-over has not been quick, and both the Labor and the Liberal-Country governments have felt compelled to cater to Australian public sympathy for the leftist Fretilin forces' fight for independence.

"The Fraser Government is particularly embarrassed by a leak to the press of a confidential recommendation from the Australian ambassador in Jakarta that Canberra accept Timor's integration into Indonesia — a recommendation that has now been publicly rejected by Fraser.

"Foreign Minister Peacock minimised the problem this week following a brief visit to Jakarta, but popular sympathy in Australia for

Fretilin has significantly complicated Canberra's dialogue with Jakarta.

"The Government is apparently departing from Labor's ambivalent Middle East policy. Whitlam had supported Israel's right to UN membership but met with a PLO representative invited to Australia by Labor leftists, antagonising both Arabs and Israelis. Fraser publicly promises to support Israel.

"On the economic front, the new administration will provide a somewhat more favourable investment climate and greater incentives for development of the country's energy resources.

"Although the Liberal-Country Government's foreign investment objective is the same as Labor's — 50 per cent Australian equity in new development projects — the new government is likely to be more flexible in applying existing guidelines.

"Direct government involvement in the mineral and energy field will be greatly reduced by the Fraser Government, a development which will tend to reassure potential foreign investors.

"The Government will encourage the development of Australia's massive uranium deposits. It has said it will permit exports of uranium oxide, but will watch carefully to ensure that domestic needs are met and that a reasonable return is obtained. The Labor Government had banned uranium exports, awaiting higher prices.

"Development of Australia's energy resources also should get a boost. The Fraser Government has promised incentives for oil exploration and production, including a full write-off of exploration costs against current income and a special investment allowance for development costs.

"The Whitlam Government's energy policies had brought oil exploration to a virtual standstill — only 14 oil wells were drilled during the first nine months of 1975, compared with 135 in 1972.

THE NATIONAL TIMES, MARCH 28 to APRIL 3, 1982

AGENCY EAVESDROPPED ON IRAKI LOANS REPORT

THE US National Security Agency intercepted communications relating to Labor leader Gough Whitlam's alleged attempts to raise campaign funds from Iraq during the 1975 election campaign.

The NSA is an even more secret organization than the Central Intelligence Agency. The two often regard one another as rivals.

The job of NSA is to eavesdrop on messages from a global network of listening posts. It has specialised code cracking computers in its huge headquarters at Fort Meade, Maryland.

Under agreements with Britain, Canada, and Australia these countries are supposed to be exempt from the prying ear of NSA although often such interceptions cannot be helped.

However, the CIA has informed The National Times that NSA has files on the Iraqi affair. The CIA itself also has classified material on the subject.

The information came in a reply by the CIA to a Freedom of Information request by this paper. The CIA said that its answer referred to "any records on attempts by the Australian Labor Party to obtain funds from the Iraqi Government or the Baath socialist party in late 1975 and early 1976".

The letter said that a search had surfaced one of its own documents dated 28 February, 1976, part of which was deleted on national security grounds "to protect from disclosure intelligence sources and methods".

It then added: "We also located a few National Security Agency and Department of State documents that appear responsive to your request."

The only reason the NSA would be likely to have documents on the Iraqi affair was if it were intercepting relevant communications. Information now leaked to The National

Times on what the CIA wanted deleted from its document shows that this in fact was the case.

The CIA document of February 28 notes Australian press reports that Whitlam met with two Iraqi diplomats just before the 1975 election to discuss a half-million-dollar contribution.

It goes on to say "Whitlam admits meeting the Iraqis, but denies that there was any talk of money".

The next paragraph, classified Top Secret, Umbra, is then deleted.

The leaked version says "Intercepted messages strongly suggest, however, that a contribution was discussed."

Whitlam still strongly denies that money was discussed at the breakfast. It is important to note that the intercepts do not refer to recordings of the actual conversations, although there are claims that attempts were made to achieve this.

Instead, The National Times understands, the intercepts occurred in Japan, and involve reports sent from the Iraqi Embassy there to Iraq. The two diplomats who met with Whitlam, along with the funds intermediary, Henri Fischer, went directly from Sydney to Tokyo.

The existence of the intercepts means that US intelligence authorities would have been in possession of highly embarrassing information to use against Whitlam if they chose to do so.

The whole attempt to get money from Iraq is one of the sorriest in Whitlam's career. He can of course argue that his judgment was affected by the shock of the sacking. But there are also strong suggestions that he was set up in some kind of hostile intelligence operation that began back in September 1975. Court documents in California and other material from a British author pointing in this direction were published in much greater detail in The National Times of September 7, 1980.

BRIAN TOOHEY



Henri Fischer, intermediary in the Iraqi loans discussions

Page Denied

06 JUL 1981

Alan Toohey
The Sydney Morning Herald Limited
1393 National Press Building
Washington, DC 20045

Dear Mr. Toohey:

This is a final response to your 2 September 1979 Freedom of Information Act (FOIA) request for any records on "attempts by the Australian Labor Party to obtain funds from the Iraqi Government or Baath Socialist Party in late 1975 and early 1976".

A thorough search of the Agency's records systems surfaced one Agency document dated 28 February 1976. This document is being released to you with a portion deleted under FOIA exemptions (b)(1) and (b)(3). (An explanation of these exemptions is enclosed.) A 7 March 1976 newspaper clipping was also located and a copy is enclosed. The denying official for the single Agency document is Mr. B. E. Layton, the Deputy Director of the Office of Political Analysis, National Foreign Assessment Center.

I am advising you of your right to appeal this decision by addressing your appeal to the CIA Information Review Committee, in my care. Should you choose to do so, please set forth the basis of your appeal.

We also located a few National Security Agency and Department of State documents that appear to be responsive to your request. Each of these documents has been referred to its originator for review and direct response to you.

Our efforts on your behalf have required one computer search (\$55), one minute of Central Processing Unit search time (\$8), five hours of professional search time (\$40), and three and three quarters hours of clerical search time (\$15). Please remit your check or money order, made payable to the Treasurer of the United States, for the total amount of \$118.

Thank you for your continued patience and consideration
while we were completing your case.



STAT

Information and Privacy Coordinator


Enclosure

IPD/JEW/nkl 25 Jun 81

Distribution:

Orig - Adse

1 - IPD Chrono

1 - IPD F79-0930 GIP (b)(1), (b)(3) 

1 - OPA/FIO

1 - CR IPD/F79-0980

DECAL

STAT

RULES AND REGULATIONS

21019

Title 32—National Defense

CHAPTER XIX—CENTRAL INTELLIGENCE AGENCY

PART 1900—PUBLIC ACCESS TO DOCUMENTS AND RECORDS AND DECLASSIFICATION REQUESTS

Freedom of Information

AGENCY: Central Intelligence Agency.

ACTION: Final rule.

SUMMARY: This rule amends CIA regulations governing access to records under the Freedom of Information Act by clarifying and updating the term "records" so that it includes machine readable materials and those documents and records furnished by other agencies, foreign governments, or international organizations and held by the CIA. Also, under this rule, a request under the Act for documents or records originated by CIA, which is referred to CIA by another agency, shall be considered a Freedom of Information request to the CIA. It will be processed in accordance with CIA regulations, as of the time that it is received by CIA, and CIA will respond directly to the requester, making it unnecessary for a requester to submit requests to both agencies. Similarly, a request directed to CIA that concerns documents or records originated by another agency will be transferred by CIA to the originating agency for their determination and direct response to the requester.

EFFECTIVE DATE: May 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Gene F. Wilson, Information and Privacy Coordinator, Central Intelligence Agency, Washington, D.C. 20505, 703-351-7486.

SUPPLEMENTARY INFORMATION:

Interested persons have been afforded an opportunity to participate in the making of these amendments by a notice of proposed rulemaking issued February 3, 1977 and published in the Federal Register, Vol. 42, No. 28, on February 10, 1977. No comments were received in response to the notice. These amendments are the same as those published in the notice.

Accordingly, 32 CFR Part 1900 is amended as follows:

§ 1900.3 [Amended]

1. In § 1900.3 paragraph (g) is amended by inserting the words "machine readable materials" between the word "photographs" and the words "and other documentary materials" and by deleting paragraphs (4) and (5).

2. Section 1900.11 is amended by revising paragraph (d) to read as follows:

§ 1900.11 Freedom of information communications; requirements as to form.

(d) Any request or communication to an agency other than the Central In-

telligence Agency which requests or concerns documents or records originated by the CIA, and which is transferred by that agency to the CIA, shall be considered a Freedom of Information request to the CIA for that referred document as of date of receipt by the CIA of the referral, and shall be processed pursuant to regulations CIA will respond directly to the requester.

2. In § 1900.13 a new paragraph (c) is added to read as follows:

§ 1900.13 Reviewing records.

(c) If the request located records are determined to have originated with another government agency, the coordinator shall notify the requester of such fact and shall expeditiously forward such records or a description thereof to the originating agency for their determination and direct response to the requester.

Dated: April 29, 1977.

JOHN F. BLAKE,
Deputy Director for Administration, Central Intelligence Agency.

(FR Doc. 77-12612 Filed 5-11-77; 2:45 am)